

1 plan had barely started to get underway. It would have had
2 consideration the following fiscal year. It would have defi-
3 nitely have been in the construction projects the following
4 fiscal year.

5 Q Well, I was, I was going to, to get to that, but I,
6 I just wanted to focus initially on the period beginning with
7 the grant of the permits themselves. And I take it from your
8 answer that there was a several-month period between the time
9 of the grant and the time Mr. Etsell was put in charge of
10 developing a business plan?

11 A I believe there was a few months, yes.

12 Q And then when Mr. Etsell was assigned to develop the
13 business plan, did he also have responsibility for running
14 TV40 at that point?

15 A His responsibilities for TV40 were through a, a
16 system manager in Carlisle who had the responsibility for
17 operating TV40, and that system manager did report to Harold
18 Etsell, yes.

19 Q All right. So, then there was a connection between
20 the running of TV40 and the development of a business plan for
21 the five low-power permits?

22 A That's correct.

23 Q But the -- by the time the budget for fiscal year --
24 the fiscal year beginning November 1, 1990, came around, there
25 had not been sufficient time to develop a business plan for

1 the five low-power permits, therefore no consideration was
2 given to the set-aside of funds for the construction of the
3 permits?

4 A I would feel that that would have been the way it
5 was, because, if I recall, the grant was in August?

6 Q Well, it's in the record what it is. I --

7 A Yes.

8 Q Right now I'm remembering July, but that's really
9 not --

10 A Well, July? Our budgeting process usually begins in
11 June or July and the -- that's the operating budgets, and by
12 about September we've got enough information to start working
13 on our capital budgets, and this project would not have been
14 included in that.

15 Q Now, when the budget process for the fiscal year
16 beginning November 1, 1991, came around, so at this point
17 we're talking summer and autumn of 1991, was specific consid-
18 eration given to the allocation of funds for the construction
19 of, still at this point, the five low-power permits for
20 Lebanon, Lancaster, and Red Lion?

21 A At that point it was definitely a project, a capital
22 project, and it would have been on the list of capital pro-
23 jects considered, yes.

24 Q Do you recall there being any documentation avail-
25 able for review by yourself or anyone else in the budgetary

1 process that spelled out or, you know, gave you some indica-
2 tion of how much money it was going to cost Raystay to build
3 the low-power stations for Lebanon, Lancaster, and Red Lion?

4 A Yes. I recall that we had put a capital budget
5 together. I could not find it in my records, but I have seen
6 in some of the documents a copy of the capital budget that we
7 put together.

8 Q Could you turn to TBF -- Trinity Broadcasting of
9 Florida Exhibit 211?

10 A Yes, I have it.

11 Q Were the two pages of TBF Exhibit 211 what it was
12 that you were referring to in terms of the capital budget or
13 possible capital expenditures for the construction of the low-
14 power television stations in Lebanon, Lancaster, and Red Lion?

15 A Yes.

16 Q Do you know who prepared this document?

17 A I believe Harold Etsell prepared it. I believe -- I
18 supplied him with the information that he used in the
19 preparation of it.

20 Q And this document was prepared in conjunction with
21 the preparation of the, the budget for -- Raystay's budget for
22 the fiscal year beginning November 1, 1991?

23 A It may have been prepared much earlier than that.
24 My best opinion of that would have been that it would then
25 have been about the time of the -- when we put the business

1 plan together.

2 Q Back in February of 1991? If you --

3 A Yes.

4 Q -- look at TBF Exhibit 210, that would give you a
5 time-frame, I believe.

6 A Yes. I think that's probably when that work was
7 performed.

8 Q Now, after TBF 211 was prepared, roughly in February
9 of 1991, what happened with it afterwards?

10 A If a viable business plan would have emerged from
11 his efforts, we would have brought this into the six-month
12 replanning. And providing that there were funds available,
13 either funds that could be reallocated or new funds that we
14 could use, it would have been put in the budget then. This is
15 in April, generally.

16 Q But did there ever come a time when you determined
17 that Mr. Etsell's business plan as reflected in TBF Exhibit
18 210 was not viable?

19 A Yes, when I decided to turn the permits in.

20 Q So, between February of 1991 and March of 1993 you
21 had not made a decision relative to the viability of Mr.
22 Etsell's plan?

23 A We couldn't find a way to make it viable, no.

24 Q All right. I guess I'm, I'm puzzled by -- perhaps
25 it's just a terminology problem, and let's see if we can work

1 through it. Mr. Etsell presented his plan in February of
2 1991, and at some point in time Raystay apparently made the
3 determination that the business plan simply wasn't going to
4 work. Now, according to what you just said, that the termina-
5 tion was made absolutely final in March of 1993. My question
6 to you is was there any earlier time at which a determination
7 had been made by Raystay that the -- Mr. -- that Mr. Etsell's
8 business plan was not going to work? And if you need to, you
9 know, glance through the business plan, feel free.

10 A I can't recall of any time that we abandoned that
11 basic plan. We had different types of suggestions made at
12 meetings that we had, and we would meet maybe once a month,
13 and this was one of the items, the construction permits, to
14 exchange information what we were doing, what should we do,
15 and this would be Mr. Etsell and, and Lee Sandifer and myself.
16 And I can't recall ever saying -- or anyone saying: let's
17 abandon it. We weren't able to find a way to make it work,
18 but that's, in my mind, different than abandoning it.

19 Q In terms of a, of a time-frame, now, in February of
20 1991 the business plan was presented and apparently Mr. Etsell
21 was given a specific charge by yourself to take steps to try
22 to make it work. Then there came a time when Raystay negoti-
23 ated and entered into an agreement with Mr. Fenstermacher's
24 company, Quality Family Company, or whatever the particular
25 name of it was. And I believe you testified that there was a

1 suspension of activity relative to the business plan that Mr.
2 Etsell had developed? Am I, am I using the proper --

3 A Yes.

4 Q -- term?

5 A I -- that's a word I would use.

6 Q Now, in August, then, of 1991, the arrangement with
7 Mr. Fenstermacher fell through?

8 A Correct.

9 Q Are you saying, then, that in August of 1991 Mr.
10 Etsell was again directed by yourself to pick up the February
11 business plan and try to make a go of it?

12 A When we got the offer from Fenstermacher, it was not
13 as interesting as our own plan, so we, we continued to work on
14 our own plan. When we started to run into trouble with some
15 of the concepts in our own plan, then I looked at Mr.
16 Fenstermacher's proposal and we made the decision to try it,
17 and we tried that. And at that point I told Mr. Etsell not to
18 do anything more on the business plan he had proposed, and we
19 had some other areas that needed work on and I asked him to
20 pay attention to those. He spent several months on those
21 other projects when Mr. Fenstermacher was operating TV40. And
22 then when the Quality Family default occurred, I don't recall
23 the exact meeting but we had a meeting about once a month of
24 the three of us, and at that point I recall that, bringing the
25 subject up, we had to now find some solution of what we were

1 going to do with the construction permit.

2 Q And by the three of us you're referring to yourself,
3 Mr. Sandifer, and Mr. Etsell?

4 A That's correct.

5 JUDGE CHACHKIN: You -- have you finished your
6 statement?

7 MR. GARDNER: Yes, thank you.

8 JUDGE CHACHKIN: Go ahead. So, I don't know if you
9 completed it, so at, at some point, at some point, then, you
10 again instructed Mr. Etsell to continue working on the busi-
11 ness plan? Is that what you're saying?

12 MR. GARDNER: The, the construction permits for the
13 LPTV were a, a part of a loose agenda where items would come
14 on and drop off in our general monthly meetings. And during
15 the entire time that we had the construction permits, it was
16 an agenda item. And if there was any activity or anything
17 that any of us thought about or were doing, we would report it
18 to each other. Sometimes I made notes of what we were doing.
19 And if there was anybody that had an idea that someone else
20 should work on, that's when we would exchange that idea.

21 JUDGE CHACHKIN: Well, you testified that when, when
22 you were still -- when you were pursuing the Fenstermacher
23 proposal you had Mr. Etsell working on something else --

24 MR. GARDNER: Yes.

25 JUDGE CHACHKIN: -- entirely.

1 MR. GARDNER: Yes.

2 JUDGE CHACHKIN: And then the question is when the
3 Fenstermacher proposal no longer existed, what if anything did
4 you tell Mr. Etsell to do concerning the implementing the
5 business plan for the low-power CPs?

6 MR. GARDNER: At that point, this would have come
7 back on the monthly agenda. And since Mr. Etsell had been
8 assigned this project, I feel certain that I reassigned him
9 the project. I worked with him on it and David Gardner worked
10 to some extent on it, but it was an agenda item until we
11 turned the permits in.

12 JUDGE CHACHKIN: Go ahead.

13 BY MR. SHOOK:

14 Q Now, if, if I remember your testimony correctly, in
15 September of 1991, or roughly in that range, Mr. Sandifer was
16 assigned to oversee the operations of TV40?

17 A That's correct.

18 Q Now, as a consequence of -- well, let me backtrack a
19 little bit. Was that then a change in terms of overall res-
20 ponsibility of TV40's operations from Mr. Etsell to Mr.
21 Sandifer?

22 A Mr. Etsell had never had direct responsibility for
23 TV40. He had it through the Carlisle system manager. And one
24 of the things that I was attempting to do was make TV40 prof-
25 itable. And I would give the responsibility to one person for

1 awhile and work with them, see what they could do. If they
2 didn't manage to do it, then I would shift it to someone else.
3 And Mr. Etsell had been assigned some different responsibili-
4 ties other than supervising the Carlisle system manager, who
5 was responsible for TV40.

6 After the Fenstermacher, or Quality Family, default,
7 I assigned Mr. Sandifer directly to TV40. I took it out from
8 under the Carlisle system manager and asked him if he would
9 see what he could do with it. He had some previous operating
10 experience other than financial and some previous employment,
11 and I felt maybe that would be something that was worthwhile
12 to try.

13 Q In conjunction with Mr. Sandifer being assigned
14 direct responsibility for the operation of TV40, was he also
15 assigned any direct responsibility for the development of a
16 plan that would lead to the construction of the low-power
17 stations at Lebanon, Lancaster, and Red Lion?

18 A He wasn't assigned that direct responsibility. But
19 since he was responsible for TV40, there was some of that
20 attached to him. And I'll explain it this way: He -- his
21 responsibility was not only to see if he could find a way to
22 make it operate, operate properly, but if there was anyone
23 that had some proposal to us that made sense for the sale of
24 TV40, to handle that, and I assigned that to him because he
25 was operating. In the sale of TV40, there were some people

1 who were interested in the construction permits, so he had
2 some responsibility there.

3 Q With respect to a possible sale of TV40, are you
4 saying that your instructions to Mr. Sandifer were that he
5 should be open to offers relative to TV40, whether or not
6 those offers also pertained to the low-power permits for
7 Lebanon, Lancaster, and Red Lion?

8 A Yes. Primarily TV40, because the construction
9 permits were actually being worked on separately by Mr. Etsell
10 and myself.

11 Q Well, conversely, then, was Mr. Etsell given any
12 charge to be open to offers to purchase -- or to -- you know,
13 for the sale of the five low-power permits without regard to
14 whether any offer included TV40?

15 A I never gave him that request, no.

16 Q Was anything ever said by you to Mr. Etsell relative
17 to the potential sale of some but not all of the low-power
18 construction permits?

19 A No. I, I, frankly, can never remember even dis-
20 cussing it with Mr. Etsell. It's not something that would
21 have been in a job responsibility I would have given him. He
22 was given the responsibility to devise a plan to make a viable
23 business plan and nothing else.

24 Q With respect to the business plan, are, are you then
25 -- are you now -- are you saying, are you saying that

1 essentially from September of 1991 to March of 1993 Mr. Etsell
2 had a continuing charge to endeavor to develop a viable busi-
3 ness plan for the construction and operation of the low-power
4 permits for initially Lebanon, Lancaster, and Red Lion, and
5 then, after the sale of Red Lion, Lebanon and Lancaster?

6 A That's correct.

7 Q And this charge would have been brought to his
8 attention essentially at your once-a-month meetings?

9 A That's correct.

10 Q And these charges, I take it, were, were given to
11 Mr. Etsell by you orally?

12 A Yes.

13 Q They were not reduced to writing?

14 A These were more oral readings -- meetings than
15 written meetings. Many times we would put a partial agenda
16 together just to make sure that we had something on the agenda
17 and everyone knew we were going to talk about it so that they
18 could more prepare themselves for it, but we had also oral
19 items put on the agenda all the time.

20 MR. SHOOK: Can we go off the record one second,
21 Your Honor?

22 JUDGE CHACHKIN: Yes.

23 (Off the record.)

24 (On the record.)

25 JUDGE CHACHKIN: I gather from what you're saying

1 that from the very outset when you got these construction
2 permits you never believed that the five CPs by themselves
3 were viable but only would be viable in conjunction with TV40?

4 MR. GARDNER: That's correct, Your Honor, and the
5 reason for that was my experience with TV40.

6 JUDGE CHACHKIN: And what was that?

7 MR. GARDNER: The -- we applied for these construc-
8 tion permits before we had a good feel of how we would recover
9 the operating expense of TV40 and we ran into great difficulty
10 selling the advertising on it, so we could not produce the
11 revenue to cover the operating expenses. After we got the
12 grant of the construction permit, it was very clear to me that
13 I had to find a way to make these construction permits finan-
14 cially viable or just not build them.

15 JUDGE CHACHKIN: And your idea was the only way it
16 would be viable is some kind of regional network in which you
17 used TV40 as a hub, one might say, and, and the, the others
18 would, would provide service to various other communities that
19 you couldn't reach with TV40 and also if you were able to hook
20 on with cable systems? Is that --

21 MR. GARDNER: Yes. That would limit our operating
22 expense, which was mostly payroll, and allow us to streamline
23 the operation so that we could actually break even with it.
24 Yes.

25 JUDGE CHACHKIN: Go ahead, Mr. Shook.

1 BY MR. SHOOK:

2 Q Mr. Gardner, you made reference to agendas and you
3 indicated that -- I think you indicated by your, by your
4 answer that the agenda for a monthly meeting was generally
5 written?

6 A No. These were monthly meetings. And if we had
7 something that we wanted to add to the agenda or wanted to
8 make sure everyone knew was coming up, it would be put in a
9 written form when the meeting was established. Many times the
10 meeting time would be circulated by a secretary just to notify
11 us of the meeting with no items listed. But when there were
12 items that we wanted to make sure everyone knew we were going
13 to consider at that meeting, they would be listed.

14 Q Are you saying that periodically between September
15 of 1991 and March of 1993 an item -- a specific item for
16 consideration was the pending low-power construction permits
17 for Lebanon and Lancaster?

18 A Once the construction permits were issued to us, it
19 would have been included as an agenda item because it was a
20 capital project and the capital projects that were unable to
21 be funded for one reason or another, there was no way you
22 could fund it because of financing, no way that you could fund
23 it because there was parts of it that we hadn't completed,
24 whatever the reason was that we couldn't carry through with
25 it, it would have been an agenda item with the three of us and

1 it would have been considered at these meetings which general-
2 ly occurred once a month. There was no specific date for the
3 meetings. That's why we had to issue a meeting notice.

4 MR. SHOOK: Now, Your Honor, I, I'd like to have a,
5 a situation clarified here because reference is made to agen-
6 das and in the documents that were distributed in this case I
7 have, I have no recollection of seeing any agendas. Now, it,
8 it may be that --

9 MR. COHEN: Ask the witness.

10 MR. SHOOK: Well, I've asked the witness whether
11 such exists and I'm, I'm led to believe by his answer that
12 they do.

13 BY MR. SHOOK:

14 Q Now, I guess that, that the next question would be:
15 are you aware, Mr. Gardner, of whether any agendas -- written
16 agendas between the period the construction permits were
17 issued for Lebanon, Lancaster, and Red Lion and the time the
18 permits for Lebanon and Lancaster were turned in were any
19 written agendas submitted by yourself to counsel in conjunc-
20 tion with a, a document production request by the, the Parties
21 in this proceeding?

22 A Well, first of all, I, I don't have any recollection
23 of written agendas specifically on the LPTV construction
24 permits, but the written agendas that I'm talking about were
25 mainly meeting notices. Most of the agenda was the items that

1 each of us were carrying in our working files. My working
2 file would have had whatever I was doing on the CPs and I
3 would carry that to the meeting. And when -- as I would go
4 through the meeting, I would take each working file, if there
5 was something that we would do or discuss or needed attention,
6 I would either use the working file to refer to previous
7 information I might have in it or make notes or whatever, and
8 then move that working file over and go to the next item.
9 Each of us would go through a working file like that. Not all
10 of us kept the same type of working file, but we would go
11 through the things that we were working on and relay it to the
12 other people, tell them what the problems were. Or if we
13 wanted to get it into a budget situation, we would talk about
14 that, how we're going to do that, when are we going to do it,
15 that type of thing. It was sort of a way to manage all of the
16 projects that we had going.

17 Q All right. So, let me see if I understand you. At
18 the monthly meetings, or roughly monthly meetings, that you
19 would have with Mr. Sandifer and Mr. Etsell, each of you would
20 bring to the meeting a set of working files and these were the
21 matters that you would talk about?

22 A Mr. Etsell, I seem to recall his working file was a,
23 a bulging briefcase that he always kept beside him, and he
24 would pull things out of it. My working file was more on the
25 order of a manilla folder that I kept separate manilla folders

1 in, sort of a master manilla folder and other manilla folders
2 of things that I had in it. And Mr. Sandifer, I seem to
3 recall, generally used a big yellow note pad.

4 But we would have a meeting notice for when we
5 decided to get together, and it would go out so each of us
6 would know when the meeting was. If there was something that
7 I or one of the other ones wanted to make sure the other ones
8 knew was going to be discussed at that meeting, we would give
9 it to a secretary who was preparing that notice and she would
10 put it on the meeting notice. As far as a formal agenda, I
11 don't believe you could classify it as that, no.

12 Q Well, all right. Let's, let's use a different term
13 then. You mentioned a meeting notice.

14 A Yeah.

15 Q Do you recall any meeting notices that were prepared
16 between the issuance of the construction permits in roughly
17 July of 1990 until the cancel-- or the permits were handed in
18 March of '93 that specifically referenced consideration of the
19 low-power construction permits for Lebanon and Lancaster?

20 A I was given the responsibility in my deposition to
21 go through files that I had and see if I could locate my
22 working files, because I had made mention of those working
23 files. And I did search all of my records and I could not
24 find anything. I -- my problem very likely is, as I've stated
25 before, I don't want to push it too much, but the 1992 Cable

1 Consumer Protection -- and whatever -- Act really got on my
2 desk to the place where -- to the exclusion of everything
3 else, and it was just pretty obvious that I've misplaced a lot
4 of things. I have no idea what might have happened to them.

5 Q So, are you saying that meeting notices during the
6 period that I'm asking about did in fact exist and include the
7 low-power construction permits as a topic that was going to be
8 discussed or are you saying you're not sure that such notices
9 included the low-power permits as a topic to be discussed?

10 A What I'm saying is our general practice would have
11 been to discuss this at those meetings and I recall that we
12 did discuss it. Whether there was ever a meeting notice that
13 specifically listed that, I don't recall.

14 Q Now, with respect to the monthly meetings, and I,
15 I'm using monthly meetings because I, I think that's what you
16 made reference to -- and I don't mean to suggest by that, if,
17 if you want to correct me on this, that the meetings may not
18 have occurred at slightly different intervals. But just for
19 the purpose of our dialogue here, the monthly meetings taking
20 place between the summer of 1990, July of 1990, when the
21 permits were issued and March of '93 when the permits were
22 handed in for cancellation, are you saying that as a general
23 matter, as a practice, that discussion of the status of the
24 low-power permits regularly came up?

25 A If -- yes. It would have been discussed at those

1 monthly meetings and a determination of which of the three of
2 us is going to take charge of it, what we might be doing about
3 it, would have been discussed. That's when the interchange of
4 information between the three of us occurred, yes.

5 Q So, then, you would have been, you would have been
6 aware from month to month that no construction had taken place
7 relative to the, initially, the five permits and then the four
8 permits after Red Lion was sold?

9 A I would have been aware of it because I was respon-
10 sible for all construction in the company, and still am, and
11 no construction would have taken place without my knowing
12 about it.

13 Q Then -- I take it, then, you were also aware that
14 not only had there been no construction but there were no even
15 -- how should I say this? -- there were no plans on the part
16 of the company to construct?

17 A The viable business plan had not been completed,
18 that's correct.

19 Q Now, I want to focus on the December 1991 extension
20 applications; and just to give you a frame of reference here,
21 I believe it's TBF Exhibit 245.

22 MR. EMMONS: Here's 245.

23 BY MR. SHOOK:

24 Q And these are just for the -- and, and my focus
25 here, my focus here is not with the specific wording of the

1 responses given in the Forms 307 or what appears in Exhibit 1,
2 but my question is had you told Mr. Sandifer what the nature
3 of his review was supposed to be of materials such as that
4 appearing in Exhibit 245 that he received from Mr. David
5 Gardner. Did you tell Lee Sandifer how he was supposed to
6 review this material?

7 A Yes. The, the material that had been coming from
8 David Gardner at times had inaccuracies in the typing or
9 omissions of typing that should have been on it instead of me
10 writing it in, and I asked him to make sure that anything that
11 came from David that he had put through the secretarial pool
12 that before it got to me he reviewed it to make sure that it
13 had been done correctly. This had to do with -- like on this
14 Exhibit No. 15, page 2, where my title is President and it's
15 typed in, many times it wouldn't be typed in and I'd have to
16 write it in, and I thought it was not a professional way to
17 present a document, and I asked him to make that the secre-
18 tarial pool as well as David Gardner were giving me documents
19 that were in form for me to sign.

20 Q So, then, Mr. Sandifer's responsibilities were
21 essentially to -- well, first of all, ensure that there were
22 no typographical errors.

23 A That it was composed correctly, yeah.

24 Q That it appeared to be a professionally done job, I
25 mean, that it looked good.

1 A Yes.

2 Q That the sentence structure made sense, that it was
3 coherent. But what did you tell Mr. Sandifer? Did you tell
4 Mr. Sandifer to do anything or to check in any way the appar-
5 ent -- let me strike that. Let me start again.

6 Did you give Mr. Sandifer any instructions to review
7 for accuracy all representations made in an application such
8 as the, the Form 307 that we see in TBF Exhibit 245, pages 2,
9 3, and 4?

10 A I believe my instructions went a little bit further
11 than just the presentation appearance of the document, that
12 anything that he was familiar with, to make sure that it was
13 correct. My instructions to him were not to investigate
14 anything that he wasn't familiar with or involved in, no.

15 Q So, Mr. Sandifer was supposed to take at face value
16 representations made in an application such as the Form 307
17 that appears in TBF 245, pages 2, 3, and 4, at face value?

18 A David Gardner was working with our legal counsel. I
19 was not asking him to go back and consult a legal counsel, no.
20 His responsibility was to make sure that whatever product that
21 our legal counsel and David Gardner had produced, and to the
22 best of his knowledge, anything that may have been incorrect
23 was corrected before it came to me so that I could sign the
24 document after I assured myself that it was in a form that I
25 was reasonably sure was correct.

1 Q Now, with, with respect to the process of having the
2 extension applications prepared in the first instance in
3 December of 1991, when do you recall becoming aware that
4 extension applications were even going to be prepared with
5 respect to the Lebanon and Lancaster permits?

6 A I probably didn't become aware of it until it was
7 presented to me.

8 Q In other words, the first time you knew about the
9 extension applications was essentially when they were placed
10 on your desk for you to review and sign?

11 A That's correct. It was David Gardner's responsi-
12 bility to keep a particular file on any licenses, and we have
13 quite a few of them, and on the expiration dates and the lead
14 time that it was necessary to have ahead of that to prepare
15 any renewal applications or extension applications.

16 Q So, are you saying then that you were not a part of
17 any decision-making process to determine that these extension
18 applications should even be filed?

19 A Probably I was asked before he started to do the
20 work: should I file an extension application? I don't recall
21 being asked, but I am asked that question on all kinds of
22 things all the time. If we still have an interest in it, then
23 I'll tell them go ahead, yes.

24 Q But you don't have any recollection of telling him
25 to go ahead with respect to the December 1991 extension

1 request for the Lebanon and Lancaster permits?

2 A I don't have a specific recollection of it, but we
3 were doing enough work on it that he may not have even asked
4 me about it. He may have taken it upon his own initiative,
5 because we were deeply involved in working on a viable busi-
6 ness plan then. We had just come out of the Quality Family
7 situation and we were working with Robert Shaffner. I know we
8 were working with Trinity. He may not even have asked me
9 there. But in situations where he would have had direct
10 knowledge of whether we should apply for a renewal or an
11 extension of something, he would certainly ask me.

12 Q So, in responses to questions that Mr. Emmons had
13 placed to you about the preparation of these extension appli-
14 cations, your answers that reflected, I think, an understand-
15 ing that Mr. Cohen and his firm had somehow been involved in
16 the process of preparing these extension applications was
17 something that you knew as a matter of practice but didn't
18 know specifically with respect to the preparation of these
19 applications?

20 A I knew it as a matter of practice, yes.

21 Q But not specifically? I mean, you don't know the
22 specifics of who talked to whom in terms of --

23 A No.

24 Q -- the preparation of these applications when they
25 were placed before you to review and sign in December of 1991?

1 A No. It would have been someone from Mr. Cohen's
2 firm, if not Mr. Cohen, and I seem to recall in reviewing the
3 documents that Mr. Schauble handled the renewal or extension
4 applications.

5 Q Now, with respect to the extension applications that
6 were submitted in July of 1992, do you recall being involved
7 in a decision-making process whereby you determined that the
8 extension application should be filed for?

9 A I was more involved in that one that I normally
10 would have been because Mr. Sandifer was on vacation, and
11 David Gardner had told me that he was working with Mr. Cohen
12 on this extension application and that we would have to send
13 it to them for filing before Mr. Sandifer returned from the
14 vacation. I was more involved in that. I knew more about it
15 because Mr. Sandifer was not available.

16 (Off the record.)

17 (On the record.)

18 BY MR. SHOOK:

19 Q Outside of the absence of Mr. Sandifer from the
20 reviewing process for the July 1992 extension applications,
21 did your involvement vary in any way from -- did your involve-
22 ment in the July 1992 extension applications vary in any way
23 from what had been the case in the December 1991 extension
24 applications?

25 MR. SCHAUBLE: Objection, Your Honor. That question

1 is vague. I'm not --

2 JUDGE CHACHKIN: Sustained.

3 BY MR. SHOOK:

4 Q You've indicated that Mr. Sandifer did not -- was
5 not involved in the 1992 reviewing process; he was on
6 vacation.

7 A That's correct.

8 Q And you've also indicated that David Gardner in-
9 formed you that the July 1992 extension applications were
10 being prepared?

11 A Yes.

12 Q When the applications were being prepared, did you
13 have any involvement in that preparation other than the review
14 and signing of the application as it was presented to you by
15 David Gardner?

16 A No.

17 MR. SHOOK: Your Honor, may we go off the record --

18 JUDGE CHACHKIN: Yes.

19 MR. SHOOK: -- for one minute?

20 (Off the record.)

21 (On the record.)

22 JUDGE CHACHKIN: The Bureau has no further ques-
23 tions? Is that correct?

24 MR. SHOOK: Correct, Your Honor.

25 MR. SCHAUBLE: Can we have our morning recess, Your

1 Honor?

2 MR. COHEN: May we have our morning recess, Your
3 Honor?

4 JUDGE CHACHKIN: It's a little early, but I'll, I'll
5 grant you a ten, ten-minute recess.

6 MR. COHEN: Thank you, Your Honor.

7 (Whereupon, a brief recess was taken from 10:25 a.m.
8 until 10:38 a.m.)

9 JUDGE CHACHKIN: Any redirect?

10 MR. SCHAUBLE: Just a few questions, Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. SCHAUBLE:

13 Q Mr. Gardner, what role did the possibility of sell-
14 ing the Lancaster and Lebanon construction permits play in the
15 decision to file applications to extend those construction
16 permits in December 1991?

17 A There was no consideration given. The renewals were
18 never made with the idea of selling the construction permits.

19 Q What role did the possibility of selling the
20 Lancaster or Lebanon construction permits play in the decision
21 to file extension applications for those permits in July of
22 1992?

23 A Again, there was never any consideration given to
24 filing an extension application because of the sale of the
25 permits.